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6	Attorneys for Complainant
7	BEFORE THE
8	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against:   Case No. 2010 - 245
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12	JUAN FOLLOSO ORIAS, JR. 8350 Kobert Court  ACCUSATION
13	Winters, CA 95694 Registered Nurse License 505220
14	Respondent.
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16	Complainant alleges:
17	<u>PARTIES</u>
18	1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely
19	in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
20	Department of Consumer Affairs.
21	2. On or about October 7, 1994, the Board of Registered Nursing issued
22	Registered Nurse License Number 505220 to Juan Folloso Orias, Jr. (Respondent). The
23	Registered Nurse License was in full force and effect at all times relevant to the charges brought
24	herein and will expire on July 31, 2010, unless renewed.
25	<u>JURISDICTION</u>
26	3. This Accusation is brought before the Board of Registered Nursing
27	(Board), Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
  - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

## 7. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or

violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigatio 1 and enforcement of the case. 2 FIRST CAUSE FOR DISCIPLINE 3 (Unprofessional Conduct - Documentation) 4 Respondent is subject to disciplinary action under section 2761(a), in that 9. 5 he acted unprofessionally when he failed to document his assessments and treatment of a patien 6 The circumstances are as follows: 7 On or about September 8, 2007, while working as a registered nurse in th 10. 8 Kaiser Hospital Walnut Creek Emergency Room, Respondent undertook to care for and treat 9 patient J.B.1, who had been admitted to the hospital for evaluation after losing consciousness. It 10 the course of his treatment of the patient, Respondent asserted that he assisted the patient in 11 getting from the commode to the bed, removed her underpants, performed an EKG, assessed he ·12 level of consciousness and drew ordered labs from the patient. He did not document any of the 13 14 procedures or assessments. SECOND CAUSE FOR DISCIPLINE 15 (Unprofessional Conduct - Sexual Misconduct) 16 Respondent is subject to disciplinary action under section 726 in that in 11. 17 the course of caring for and treating patient J.B. on September 8, 2007, as set forth above in 18 paragraph 10, Respondent inappropriately touched the patient in a sexual manner on her chest, 19 20 breasts and vaginal area. PRAYER 21 WHEREFORE, Complainant requests that a hearing be held on the matters here 22 alleged, and that following the hearing, the Board of Registered Nursing issue a decision: 23 Revoking or suspending Registered Nurse License Number 505220, issu-24 1. to Juan Folloso Orias, Jr. 25 26 27 1. The patient's full name will be provided to Respondent in the course of Discovery.

Initials are being used herein to protect the patient's privacy.

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1	2. Ordering Juan Folloso Orias, Jr. to pay the Board of Registered Nursing
2	the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3	Professions Code section 125.3;
4	3. Taking such other and further action as deemed necessary and proper.
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6	DATED: 11/3/09
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8	Louise R-Bailer
9	LOUISE R. BAILEY, M.Ed., RN Interim Executive Officer
10	Board of Registered Nursing
11	Department of Consumer Affairs State of California Complainant
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